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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,072	04/06/2004	Greg W. Melchoir	08541-01 ESCM 370093-0015	7232
8840	7590	10/31/2005	EXAMINER	
ECKERT SEAMANS CHERIN & MELLOTT, LLC ALCOA TECHNICAL CENTER 100 TECHNICAL DRIVE ALCOA CENTER, PA 15069-0001			DURAND, PAUL R	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/820,072	<b>Applicant(s)</b> MELCHOIR ET AL.	
	<b>Examiner</b> Paul Durand	<b>Art Unit</b> 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 6-9 and 13-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, 5 and 10-12 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 6-9 and 13-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2/14/2005.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Bodolay et al (US 4,945,714).

In regard to claim 1, Bodolay discloses the invention as claimed including closure profiles comprised of zipper 24, piston 70, rod 72, connected to a wedge in the form of block with fingers 78, guide channel formed between web guiding means 42 and 44, which guide the closure profiles in proximity with the wedge and means for operating the cylinder to insert the wedge into the closure mechanism to open the profile (see Figs 4,5 and C3,L19 – C4,L51).

In regard to claim 2, Bodolay discloses the invention as claimed including a rod 72 moved in a reciprocal and repetitive manner.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1,2 and 11 rejected under 35 U.S.C. 103(a) as being unpatentable over Koppe (US 6,401,439) in view of Bodolay.

In regard to claims 1,2 and 11, Koppe discloses the invention substantially as claimed including a guide channel formed between conveyors 249, wedges in the form of fingers 160 of spreader assembly 75, which is movable perpendicular through cam follower 161 in a reciprocating and repetitive manner to open closure profiles 15a and 15b (see Figs. 3,5,15-20 and C15,L43 – C17,L31). What Koppe does not disclose is the use of a piston and cylinder to move the wedges. However, Bodolay teaches that it is old and well known in the art of bag opening to provide a piston 70 and rod 72, which are moved in a reciprocal and repetitive manner and connected to a wedge in the form of block with fingers 78 for the purpose of opening a bag with a closure profile (see Figs 4,5 and C3,L19 – C4,L51).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Koppe with the cylinder and rod means as taught by Bodolay for the purpose of opening a bag with a closure profile.

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6. Claims 4, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koppe and Bodolay in view of Laguerre (US 3,426,396).

In regard to claims 4 and 10, the modified invention of Koppe discloses the invention substantially as claimed as applied to claim 1 above except for the use of guide members to guide the closure. However, Laguerre teaches that it is old and well known in the art to provide guide members 16, which are in planar alignment with wedge, forms a channel comprised of spacer 15 for the purpose of separating a closure profile (see Figs 7,8 and C3,L45-75). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the modified invention of Koppe with the guide means as taught by Laguerre for the purpose of separating a closure profile.

In regard to claim 12, the modified invention of Koppe discloses the invention substantially as claimed as applied to claim 11 above except for the use of a heater. However, Laguerre teaches that it is old and well known in the art to provide heaters 14 in a parallel arrangement for the purpose of sealing a bag onto the closure profile (see Figs 7,8 and C3,L45-75). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the modified invention of Koppe with the heating means as taught by Laguerre for the purpose of sealing a bag onto the closure profile.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koppe and Bodolay in view of Bruno (US 5,334,127).

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The modified invention of Koppe discloses the invention substantially as claimed as applied to claim 1 above except for the wedge being substantially as wide as the bag width. However, Bruno teaches that it is old and well known in the art to provide an opening wedge 26, with a width that corresponds substantially to the width of a bag for the purpose of opening a closure profile (see Fig.3). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the modified invention of Koppe with the wedge means as taught by Bruno for the purpose of opening a closure profile.

#### ***Allowable Subject Matter***

8. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

9. Applicant's arguments, filed 8/5/2005, with respect to the rejection(s) of the claim(s) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Koppe and Bodolay.

#### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the

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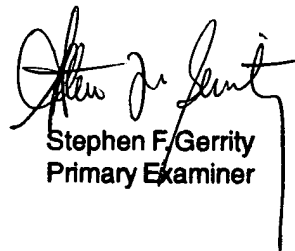
examiner should be directed to Paul Durand whose telephone number is 571-272-4459.

The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Durand  
October 24, 2005



Stephen F. Gerrity  
Primary Examiner